

INITIAL STATEMENT OF REASONS

- a) Specific Purpose of the Regulations and Factual Basis for Determination that Regulations Are Necessary

Section 30-755.113

Specific Purpose:

This section is amended to specify that those individuals who meet the noncitizen status as defined in Manual of Policies and Procedures (MPP) Section 30-770.51 shall be eligible for the In-Home Supportive Services (IHSS) program if all other eligibility criteria are met.

Factual Basis:

This amendment is necessary to allow noncitizens, who would otherwise be ineligible for IHSS, to be granted the benefits and services through the new state-only program as mandated by Welfare and Institutions Code Section 18945.

Sections 30-770.5 and .51

Specific Purpose:

These sections are adopted to provide eligibility to those noncitizen victims of human trafficking, domestic violence, or other serious crimes for IHSS. A cross reference is necessary to MPP Chapter 70-100, which implements the new state-only program, the Trafficking and Crime Victims Assistance Program (TCVAP).

Factual Basis:

This adoption is necessary to comply with the provisions of Welfare and Institutions Code Section 18945 that would allow noncitizens eligibility in the IHSS program.

Section 40-037

Specific Purpose/Factual Basis:

This section is adopted to provide implementation instructions for the CalWORKs Program, Eligibility Section, on the provisions of SB 1569 (Chapter 672, Statutes of 2006) which extends eligibility for certain public social services, including state-funded CalWORKs, to certain noncitizen victims of trafficking, domestic violence or other serious crimes, as defined, who can demonstrate their eligibility for these programs, and who are taking steps to meet eligibility conditions for federal benefits.

Section 40-105.21

Specific Purpose:

This section is amended to eliminate an obsolete reference to the former Aid to Families with Dependent Children (AFDC).

Factual Basis:

The amendment of this section is necessary to eliminate an obsolete reference to the AFDC program. AB 1542 (Chapter 270, Statutes of 1997) renamed the AFDC program to the California Work Opportunity and Responsibility to Kids (CalWORKs) program effective January 1, 1998.

Section 40-105.26

Specific Purpose:

This section is adopted to provide an exception to the CalWORKs Social Security Number (SSN) application requirement in those situations where the noncitizen identified as a victim of trafficking, domestic violence or other serious crimes does not have permission to work in the United States.

Factual Basis:

SSN enumeration, established for program integrity through the use of the Income Eligibility Verification System (IEVS), is a federal requirement necessary to receive Temporary Assistance for Needy Families (TANF) funding. Under SB 1569 these individuals are state-funded cases and not governed by this federal requirement.

This section is necessary to comply with Sections 13283, 14005.2 and 18945 of the Welfare and Institutions Code added by The Trafficking Victims Protection Reauthorization Act of 2003 (Public Law 108-193) as SB 1569, to ensure that noncitizens who do not have permission to work in the United States and whose application for a SSN would otherwise be rejected by the Social Security Administration (SSA) are not denied assistance by the county when all other eligibility requirements are met.

In accordance with SB 1569, these individuals shall be eligible for these services to the same extent as individuals who are admitted to the United States as a refugee under Section 1157 of Title 8 of the United States Code. SSN is not required in this instance.

Sections 42-430 and 42-431.2

Specific Purpose:

The amendment of these sections is necessary to eliminate an obsolete reference to the AFDC program and to update other terminology.

Factual Basis:

AB 1542 renamed the AFDC program to the California Work Opportunity and Responsibility to Kids (CalWORKs) program effective January 1, 1998.

Changes in the federal Food Stamp Program began updating the terminology "alien" to "noncitizen." The CalWORKs Program seeks to be consistent by incorporating in regulations on a flow basis, the terminology "noncitizen," when appropriate.

Sections 42-431.23 et seq., .3 and .31

Specific Purpose:

These sections are adopted to clarify that a noncitizen who is a victim of human trafficking, domestic violence, or other serious crimes may receive CalWORKs cash assistance when all eligibility and program requirements are met. Additionally, a cross reference to the SSN exception requirement is provided and an explanation to the actions the county must take when the individual is not otherwise eligible for CalWORKs. The handbook sections define severe forms of human trafficking and victims of serious crimes.

Factual Basis:

These sections are necessary to comply with Sections 13283, 14005.2 and 18945(a) of the Welfare and Institutions Code added by SB 1569, which establishes a new state-funded claiming under the CalWORKs program by extending eligibility for certain public social services to noncitizen victims of trafficking, domestic violence or other serious crimes, who can demonstrate their eligibility for these programs and who are taking steps to meet the eligibility conditions for certain federal benefits.

Sections 42-431.32 et seq. and .33 et seq.

Specific Purpose:

These sections are adopted to specify the procedures for determining eligibility as a victim of human trafficking and providing a description of documentation that is sufficient for determining trafficking status. Additionally, a process for determining credibility is provided in order to assist the CWD in making this determination in the absence of sufficient documentation.

Factual Basis:

These sections are necessary to comply with Sections 13283, 14005.2 and 18945 of the Welfare and Institutions Code added by SB 1569, to prescribe certain documentation that may be provided to the CWD when determining eligibility as a victim of human trafficking. Also, a section is adopted to clarify that, in the absence of additional evidence, the sworn statement of an applicant attesting to his/her trafficking status will be sufficient if the CWD makes a determination and documents in the case file that the applicant is credible.

Sections 42-431.4 through Handbook Section 42-431.43

Specific Purpose:

These sections are adopted to specify the additional requirements an applicant must satisfy for continued eligibility once the CWD determines that the individual meets the definition of a victim of human trafficking. Additionally, the handbook sections provide acceptable documentation that may be used to verify that an applicant has filed or is preparing to file for a T Visa, the steps to be taken when no documentation is available, and the definition of "continued presence."

Sections 42-431.44 et seq.

Specific Purpose:

These sections are adopted to ensure that the CWD knows the specific circumstances in which action is to be taken to terminate victims of human trafficking from state-funded eligibility to CalWORKs. Also, a definition of "final administrative denial" is provided.

Factual Basis for Sections 42-431.4 through .44 et seq.:

These sections are necessary to comply with Sections 13283, 14005.2 and 18945(c) of the Welfare and Institutions Code added by SB 1569, to specify that benefits issued under these provisions be available for up to one year and shall continue after that date only if an application for continued presence, or an application for a visa is filed within the one-year period. Also, Section 18945(a) of the Welfare and Institutions Code specifies the conditions under which benefits issued under these state-funded provisions must be terminated.

Section 42-431.45

Specific Purpose:

This section is adopted to ensure that the CWD knows that upon receipt of a T Visa, the case must be assessed for Temporary Assistance to Needy Families (TANF) eligibility and the SSN exception in MPP 40-105.26 no longer applies.

Factual Basis:

This section is necessary to comply with Section 18945(a) of the Welfare and Institutions Code added by SB 1569, which specifies the conditions under which benefits issued under these state-funded provisions be terminated.

Sections 42-431.5 through Handbook Section 42-431.524

Specific Purpose:

These sections are adopted to specify the requirements and documentation for an applicant applying as a victim of domestic violence or other serious crimes. Additionally, handbook

sections provide examples of acceptable documentation that may be used to verify that an applicant has filed or is preparing to file for a U Visa.

Factual Basis:

These sections are necessary to comply with Sections 13283, 14005.2 and 18945(c) of the Welfare and Institutions Code added by SB 1569, and to provide counties with information regarding acceptable documentation that may be used to verify that an applicant has filed or is preparing to file for a U Visa.

Section 42-431.53

Specific Purpose:

This section is adopted to ensure that the CWD knows the specific circumstances under which state-funded aid will continue to be paid.

Factual Basis:

This section is necessary to comply with Section 18945(a) of the Welfare and Institutions Code added by SB 1569, to specify that benefits issued under these provisions shall continue until the recipient has a final administrative denial of a U Visa application.

Section 42-433

Specific Purpose:

These sections are amended to update the terminology "alien" to "noncitizen," to reflect the name change of the Immigration and Naturalization Service (INS) to the United States Citizenship and Immigration Services (USCIS), and to correct an obsolete form number.

Factual Basis:

These amendments are necessary to reflect the change in program name from AFDC to CalWORKs, resulting from AB 1542, effective January 1, 1998. The federal Food Stamp Program changed the term "alien" to "noncitizen." The CalWORKs Program seeks to be consistent by incorporating in regulations on a flow basis, the terminology "noncitizen," when appropriate. The name of INS was officially changed to USCIS. The CA 6 form was renamed to CW 6 at the time CalWORKs was implemented.

Section 42-711.531(d)

Specific Purpose:

This section is adopted to clarify that CalWORKs welfare-to-work participants that do not have employment authorization from USCIS shall not be required to participate in job search.

Factual Basis:

This adoption is necessary to harmonize Sections 13283 and 18945(a) of the Welfare and Institutions Code adopted by SB 1569, which extends eligibility for social services and benefits to noncitizen victims of human trafficking, domestic violence, or other serious crimes with CalWORKs work requirements. Although 13283 and 18945(a) make noncitizen victims eligible for employment services and require that they comply with work requirements, many noncitizen victims will not have authorization to work in the United States. Therefore, it would not be appropriate to have these individuals participate in job search. This subsection is also developed under the provisions of Welfare and Institutions Code Section 10553, which provides the Director of CDSS with the authority to adopt regulations that are necessary for the administration of the CalWORKs program.

Sections 42-711.551(b) and (c)

Specific Purpose/Factual Basis:

These sections are amended and are necessary to make grammatical changes necessary for the adoption of Section 42-711.551(d).

Sections 42-711.551(d) and (d)(1)

Specific Purpose:

These sections are adopted to specify that if the CWD determines that participation in job search is not required because the recipient does not have employment authorization from USCIS, the recipient will be referred to assessment.

Factual Basis:

These amendments are necessary to harmonize Sections 13283 and 18945(a) of the Welfare and Institutions Code adopted by SB 1569, which extends eligibility for social services and benefits to noncitizen victims of human trafficking, domestic violence, or other serious crimes with CalWORKs work requirements. Although 13283 and 18945(a) make noncitizen victims eligible for employment services and require that they comply with work requirements, many noncitizen victims will not have authorization to work in the United States. Therefore, it would not be appropriate to have these individuals participate in job search. However, it may be appropriate for noncitizen victims to participate in welfare-to-work activities that will assist them to prepare for future employment, which may include, but is not limited to, adult basic education (English language training), vocational education and training, domestic violence, mental health, substance abuse services. These subsections are also developed under the provisions of Welfare and Institutions Code Section 10553, which provides the Director of CDSS with the authority to adopt regulations that are necessary for the administration of the CalWORKs program.

Sections 49-020.11 and .111

Specific Purpose/Factual Basis:

These sections are amended for technical and grammatical reasons to accommodate the addition of new Section 49-020.112

Sections 49-020.112

Specific Purpose:

This section is adopted to reflect that victims of human trafficking, domestic violence or other serious crimes meet the immigration status criteria for the Cash Assistance Program for Immigrants (CAPI) as authorized in Welfare and Institutions Code Section 18937, in the same way as do those who are admitted to the United States as refugees.

Factual Basis:

This section is necessary to add the new category of noncitizen who is eligible for CAPI as mandated by Welfare and Institutions Code Section 18945, which requires victims of human trafficking, domestic violence or other serious crimes to be eligible for Public Social Services.

Section 49-020.13

Specific Purpose:

This section is adopted to specify that an individual seeking CAPI eligibility as a victim of trafficking must meet the same eligibility criteria used in TCVAP as described in MPP Sections 70-102 and 70-103.1 through .4.

Factual Basis:

The TCVAP provisions as described in MPP Sections 70-102 and 70-103.1 through .4 reflect the provisions and requirements of Welfare and Institutions Code Section 18945 for trafficking victims, which apply to all Departmental programs. The TCVAP eligibility criteria for trafficking victims are referred to here to ensure consistency across all programs.

Section 49-020.14

Specific Purpose:

This section is adopted to specify that an individual seeking CAPI eligibility as a victim of domestic violence or other serious crimes must meet the same eligibility criteria used in the TCVAP as described in MPP Section 70-104.1.

Factual Basis:

This amendment is necessary to specify the TCVAP provisions as described in MPP Section 70-104.1 that reflect the provisions and requirements of Welfare and Institutions Code Section 18945 for victims of domestic violence or other serious crimes, which apply to all Departmental programs. The TCVAP eligibility criteria for trafficking victims are referenced here to ensure consistency across all programs.

Section 49-020.22

Specific Purpose:

This section is amended to specify that a person who is not a Qualified Alien as defined in MPP Section 49-005(q)(1), who entered the United States prior to August 22, 1996 may also be eligible for Basic CAPI if he or she meets the victim of human trafficking, domestic violence or other serious crimes criteria as specified in MPP Section 49-020.1, even if he or she does not fall into one of the Permanently Residing Under Color of Law (PRUCOL) categories, as defined in MPP Section 49-005(p)(3).

Factual Basis:

This amendment is necessary because Section 49-020.1 added the victim of human trafficking, domestic violence or other serious crimes, as a qualifying immigration status for all CAPI programs.

Section 49-020.32

Specific Purpose:

This section is amended to specify that a person who is a Qualified Alien or Permanently Residing in the United States Under Color of Law as defined in MPP Sections 49-005(q)(1) and (p)(3) respectively, who entered the United States on or after August 22, 1996 may also be eligible for Extended CAPI if he or she meets the victim of human trafficking, domestic violence or other serious crimes criteria as specified in MPP Section 49-020.1.

Factual Basis:

This amendment is necessary because Section 49-020.1 added the victim of human trafficking, domestic violence or other serious crimes as a qualifying immigration status for all CAPI programs.

Section 49-030.113

Specific Purpose:

This section is amended to indicate that trafficking victims or others who have been granted formal status in the form of a T visa or other documentation that allows them to have the same rights as a refugee for other federal benefits are not exempt from referral to file for

SSI/SSP benefits even though they do not technically meet the definition of Qualified Alien, as defined in MPP Section 49-005(q)(1). People granted formal status by a T visa or other documentation are considered to be a Qualified Alien (Refugee) for the purposes of federal benefits, even though they do not meet the definition, and must be directed to file for SSI/SSP.

Factual Basis:

This amendment is necessary to clarify MPP Section 49-030.1, which states that to be eligible for CAPI, a person must be ineligible for SSI/SSP solely due to his or her immigration status. A victim of human trafficking, domestic violence or other serious crimes who has been issued a T visa is eligible for federal benefits (including SSI/SSP) to the same extent as a Refugee, and therefore must be required to file for SSI/SSP.

Section 49-060.1(k) et seq.

Specific Purpose:

These sections are adopted to show that an additional reason for CAPI benefits being suspended is when the recipient's immigration status no longer meets the criteria specified in MPP Section 49-020.1. This specifically includes a victim of human trafficking whose application for a T Visa has been finally administratively denied, or who has not applied for a T Visa within one year of the CAPI application date, or on whose behalf a request for continued presence has not been made within one year of the CAPI application date, or who has been issued a T Visa; or a victim of domestic violence or other serious crimes whose application for a U visa has been finally administratively denied. This allows the individual to submit such evidence as may be necessary during those 12 consecutive months after the effective date of suspension to regain eligibility and have benefits reinstated through the redetermination process rather than having to file a new application. Suspending benefits instead of terminating them would save the State of having to process a new disability evaluation and would save the counties the time from having to obtain the disability information.

Factual Basis:

This adoption is necessary in order to conform to the CAPI eligibility provisions specified in MPP Section 49-020.1.

Section 63-403.1

Specific Purpose/Factual Basis:

This section is amended to reflect the name change of the Immigration and Naturalization Service (INS) to United States Citizenship and Immigration Services (USCIS).

Section 63-403.11

Specific Purpose:

This section is adopted to establish eligibility for noncitizen victims of trafficking, domestic violence, or other serious crimes.

Factual Basis:

This adoption is necessary to comply with Section 18945 of the Welfare and Institutions Code added by SB 1569, which extends eligibility for social services, including food stamps, to noncitizen victims of specified human trafficking, domestic violence, or other serious crimes.

Section 63-403.2

Specific Purpose/Factual Basis:

This section is amended to capitalize "231A Affidavit of Support" for grammatical correctness and is necessary for consistency.

Sections 63-403.21 and .211

Specific Purpose:

These sections are adopted to establish food stamp regulations for victims of trafficking, domestic violence, or other serious crimes. They also added an exception to the eligibility requirement for the need of the social security number. The social security number is not required for this group of noncitizens.

Factual Basis:

These sections are necessary to comply with Section 18945 of the Welfare and Institutions Code added by SB 1569, which extends eligibility for social services, including food stamps, to noncitizen victims of specified human trafficking, domestic violence, or other serious crimes. The addition of language specifying the exception to the social security number eligibility requirement is necessary since individuals made eligible under these statutory provisions would not be granted a social security number and would not have permission to work in the United States due to their noncitizen undocumented status.

Section 63-403.31

Specific Purpose:

This section is adopted to specify that noncitizen victims of trafficking, domestic violence, or other serious crimes shall not be subject to food stamp work requirements.

Factual Basis:

This adoption is necessary to comply with Section 18945 of the Welfare and Institutions Code added by SB 1569, which extends eligibility for social services, including food stamps, to non-citizen victims of specified human trafficking, domestic violence, or other serious crimes. This adoption is necessary to specify that food stamp work registration and work requirements, including those applicable to CFAP recipients, do not apply to noncitizen victims of specified human trafficking, domestic violence, or other serious crimes.

Section 69-201.3

Specific Purpose:

This section is amended to provide a cross-reference to a new chapter of the CDSS MPP implementing a new state-only program mandated by SB 1569, the Trafficking and Crime Victims Assistance Program (TCVAP).

Factual Basis:

This amendment is necessary to comply with Sections 13283 and 18945 of the Welfare and Institutions Code added by SB 1569, which extends eligibility for social services and benefits to noncitizen victims of human trafficking, domestic violence, or other serious crimes. Eligible noncitizen victims of a severe form of human trafficking who are not eligible under MPP Section 69-202.15 and .16 and noncitizen victims of domestic violence or other serious crimes comprise the TCVAP population, and they are eligible for benefits and services to the same extent as federally-eligible refugees, but with some different criteria and exceptions. MPP Chapter 70-100 implements TCVAP, but many components of MPP 69-202 et seq. are applicable when determining eligibility for TCVAP applicants and the cross-reference avoids duplication of regulatory material. This section is also developed under the provisions of Welfare and Institutions Code 10553, which provides the Director of CDSS with the authority to adopt regulations to ensure consistency in the administration of the Refugee Program.

Sections 69-202.15 and .16

Specific Purpose:

These sections are amended to provide cross-references to TCVAP.

Factual Basis:

These amendments are necessary to comply with Sections 13283 and 18945 of the Welfare and Institutions Code added by SB 1569, which extends eligibility for social services and benefits to noncitizen victims of human trafficking, domestic violence, or other serious crimes. These cross-references are necessary to avoid confusion that may arise due to the similarities between the program populations, to clarify that these sections do not apply to noncitizen victims of a severe form of human trafficking who are not certified by the Office

of Refugee Resettlement (ORR) or to noncitizen victims of domestic violence or other serious crimes, and to specify which MPP section applies to TCVAP applicants. This section is also developed under the provisions of Welfare and Institutions Code 10553, which provides the Director of CDSS with the authority to adopt regulations to ensure consistency in the administration of the Refugee Program.

Section 69-202.23

Specific Purpose:

This section is adopted to include TCVAP recipients in the category of individuals who are not considered "refugees," and to provide a cross-reference.

Factual Basis:

This adoption is necessary to comply with Sections 13283 and 18945 of the Welfare and Institutions Code added by SB 1569, which extends eligibility for social services and benefits to noncitizen victims of human trafficking, domestic violence, or other serious crimes. TCVAP recipients are not considered "refugees" and therefore not eligible for federal cash aid or social services under the Refugee Resettlement Program (RRP). This amendment is necessary to clarify this distinction, and to provide a cross-reference to the appropriate MPP program section for determining eligibility. This section is also developed under the provisions of Welfare and Institutions Code 10553, which provides the Director of CDSS with the authority to adopt regulations to ensure consistency in the administration of the Refugee Program.

Section 69-202.41

Specific Purpose:

This section is amended to specify that time eligibility does not apply to TCVAP applicants, and to provide a cross-reference to TCVAP.

Factual Basis:

This amendment is necessary to comply with Sections 13283 and 18945 of the Welfare and Institutions Code added by SB 1569, which extends eligibility for social services and benefits to noncitizen victims of human trafficking, domestic violence, or other serious crimes. This amendment is necessary to avoid confusion that may arise due to the similarities between the program populations, to clarify that this section does not apply to noncitizen victims of a severe form of human trafficking who are not eligible under Sections 69-202.15 and .16 or to noncitizen victims of domestic violence or other serious crimes (TCVAP), and to specify which MPP section does apply to TCVAP applicants. This section is also developed under the provisions of Welfare and Institutions Code 10553, which provides the Director of CDSS with the authority to adopt regulations to ensure consistency in the administration of the Refugee Program.

Section 69-205.212

Specific Purpose:

This section is adopted to provide the definition of beginning date of aid when a TCVAP recipient is determined eligible for the federal Refugee Cash Assistance (RCA) Program.

Factual Basis:

This adoption is necessary to comply with Sections 13283 and 18945 of the Welfare and Institutions Code added by SB 1569, which extends eligibility for social services and benefits to noncitizen victims of human trafficking, domestic violence, or other serious crimes. There are differences in beginning date of aid rules for RCA when a TCVAP recipient becomes federally eligible, and there must be no break in service to the recipient. This adoption is necessary to assist the CWD in making the proper determination by specifying the appropriate method for determining beginning date of aid, and ensuring no break in service. This section is also developed under the provisions of Welfare and Institutions Code 10553, which provides the Director of CDSS with the authority to adopt regulations to ensure consistency in the administration of the Refugee Program.

Section 69-205.212(a)

Specific Purpose:

This section is adopted to specify that when a TCVAP recipient obtains ORR certification and is determined eligible for RCA and the original application for aid is still current, the beginning date of aid for RCA shall be the date of the ORR certification.

Factual Basis:

This adoption is necessary to comply with Sections 13283 and 18945 of the Welfare and Institutions Code added by SB 1569, which extends eligibility for social services and benefits to noncitizen victims of human trafficking, domestic violence, or other serious crimes. This amendment specifies the appropriate method for determining beginning date of aid for a TCVAP recipient being converted to RCA, which is different than an initial RCA determination. This will ensure that CWDs make correct determinations in these cases. This section is also developed under the provisions of Welfare and Institutions Code 10553, which provides the Director of CDSS with the authority to adopt regulations to ensure consistency in the administration of the Refugee Program.

Section 69-205.212(b)

Specific Purpose:

This section is adopted to specify that when a TCVAP recipient obtains ORR certification and is determined eligible for RCA, and the original application for aid is no longer current, regular RCA beginning date of aid rules apply.

Factual Basis:

This adoption is necessary to comply with Sections 13283 and 18945 of the Welfare and Institutions Code added by SB 1569, which extends eligibility for social services and benefits to noncitizen victims of human trafficking, domestic violence, or other serious crimes. This amendment clarifies that although the rules for determining beginning date of aid for TCVAP cases being converted to RCA differ when the original application for aid is still current, the regular beginning date of aid for RCA applies if the original application is no longer current. This is necessary to avoid confusion between the two determinations. This section is also developed under the provisions of Welfare and Institutions Code 10553, which provides the Director of CDSS with the authority to adopt regulations to ensure consistency in the administration of the Refugee Program.

Section 69-205.212(c)

Specific Purpose:

This section is adopted to specify that there must be no break in service to the recipient whose case is being converted from TCVAP to RCA.

Factual Basis:

This adoption is necessary to comply with Sections 13283 and 18945 of the Welfare and Institutions Code added by SB 1569, which extends eligibility for social services and benefits to noncitizen victims of human trafficking, domestic violence, or other serious crimes. This amendment specifies that CWDs must ensure that continuous service be provided to recipients being converted from TCVAP to RCA, and proper notice issued. This section is also developed under the provisions of Welfare and Institutions Code 10553, which provides the Director of CDSS with the authority to adopt regulations to ensure consistency in the administration of the Refugee Program.

Section 69-205.213

Specific Purpose:

This section is adopted to specify that fiscal claiming for a case must be converted from state to federal when a TCVAP recipient becomes eligible for RCA.

Factual Basis:

This adoption is necessary to comply with Sections 13283 and 18945 of the Welfare and Institutions Code added by SB 1569, which extends eligibility for social services and benefits to noncitizen victims of human trafficking, domestic violence, or other serious crimes. This adoption is necessary because the law specifically stipulates that these cases shall be paid from state funds only to the extent that federal funding is unavailable. This section is also developed under the provisions of Welfare and Institutions Code 10553, which provides the Director of CDSS with the authority to adopt regulations to ensure consistency in the administration of the Refugee Program.

Section 69-205.241

Specific Purpose:

This section is amended to specify that TCVAP recipients are not subject to time eligibility provisions, and to provide a cross-reference to TCVAP.

Factual Basis:

This amendment is necessary to comply with Sections 13283 and 18945 of the Welfare and Institutions Code added by SB 1569, which extends eligibility for social services and benefits to noncitizen victims of human trafficking, domestic violence, or other serious crimes. This clarification is necessary to avoid confusion that may arise due to the similarities between the program populations and ensure that time eligibility limitations are not applied to noncitizen victims of human trafficking who are not eligible under MPP Sections 69-202.15 and .16 or to noncitizen victims of domestic violence or other serious crimes (TCVAP). This section is also developed under the provisions of Welfare and Institutions Code 10553, which provides the Director of CDSS with the authority to adopt regulations to ensure consistency in the administration of the Refugee Program.

Division 70

Specific Purpose/Factual Basis:

This division is adopted to include within it Special Programs administered by CDSS.

Chapter 70-100

Specific Purpose/Factual Basis:

This chapter is adopted to provide a place in the Special Programs Division for the Trafficking and Crime Victims Assistance Program (TCVAP) regulations.

Section 70-101.1

Specific Purpose:

This section is adopted to introduce TCVAP.

Factual Basis:

This adoption is necessary to comply with Sections 13283 and 18945 of the Welfare and Institutions Code added by SB 1569, which extends eligibility for social services and benefits to noncitizen victims of human trafficking, domestic violence, or other serious crimes. This section defines and explains the new state-funded program established by SB 1569. Prior to this legislation, the program did not exist and is not included in the CDSS MPP. This section is also developed under the provisions of Welfare and Institutions Code

10553, which provides the Director of CDSS with the authority to adopt regulations to ensure consistency in the administration of the Refugee Program.

Section 70-101.2

Specific Purpose:

This section is adopted to assign organizational responsibility for administering and supervising TCVAP.

Factual Basis:

This adoption is necessary to comply with Sections 13283 and 18945 of the Welfare and Institutions Code added by SB 1569, which extends eligibility for social services and benefits to noncitizen victims of human trafficking, domestic violence, or other serious crimes. For clarity, it is necessary to specify the governmental entities responsible for determining the eligibility of TCVAP applicants for financial, social services and medical services, and the governmental entities responsible for supervising these activities. This section is also developed under the provisions of Welfare and Institutions Code 10553, which provides the Director of CDSS with the authority to adopt regulations to ensure consistency in the administration of the Refugee Program.

Sections 70-101.21 and .22

Specific Purpose:

These sections are adopted to specify the MPP sections that pertain to determining the status and eligibility of trafficking victims and crime victims, respectively.

Factual Basis:

These adoptions are necessary to comply with Sections 13283 and 18945 of the Welfare and Institutions Code added by SB 1569, which extends eligibility for social services and benefits to noncitizen victims of human trafficking, domestic violence, or other serious crimes. The determination of the status and eligibility of a trafficking victim differs from the determination of a crime victim. These sections differentiate between the two by specifying which MPP section applies, and directs the reader to the appropriate section, which will avoid confusion and ensure appropriate determinations for each. These sections are also developed under the provisions of Welfare and Institutions Code 10553, which provides the Director of CDSS with the authority to adopt regulations to ensure consistency in the administration of the Refugee Program.

Section 70-102.1

Specific Purpose:

This section is adopted to specify that the CWD is responsible for determining the trafficking status of an applicant.

Factual Basis:

This adoption is necessary to comply with Sections 13283 and 18945 of the Welfare and Institutions Code added by SB 1569, which extends eligibility for social services and benefits to noncitizen victims of human trafficking, domestic violence, or other serious crimes. This section is necessary to clarify that the TCVAP population, while similar to refugees, whose status is determined by United State Citizenship and Immigration Services (USCIS), will not have a USCIS determination and the CWD must conduct it. This section is also developed under the provisions of Welfare and Institutions Code 10553, which provides the Director of CDSS with the authority to adopt regulations to ensure consistency in the administration of the Refugee Program.

Handbook Section 70-102.11

Specific Purpose:

This handbook section is added to define the term "severe form of human trafficking," for CWDs to utilize when making a determination of an applicant's trafficking status.

Factual Basis:

This handbook section is necessary to provide the definition of trafficking at Section 1102 (8) of Title 22 of the United States Code, as specified in SB 1569. CWDs need a specific definition to rely upon when making the determination of an applicant's trafficking status.

Sections 70-102.2 et seq.

Specific Purpose:

These sections are adopted to specify what documentation is sufficient for determining trafficking status.

Factual Basis:

These sections are necessary to comply with Sections 13283 and 18945 of the Welfare and Institutions Code added by SB 1569, which extends eligibility for social services and benefits to noncitizen victims of human trafficking, domestic violence, or other serious crimes. These sections specify the procedure, including a description of acceptable documents provided in SB 1569, for verifying trafficking status, to ensure CWDs appropriately make this determination. These sections are also developed under the provisions of Welfare and Institutions Code 10553, which provides the Director of CDSS with the authority to adopt regulations to ensure consistency in the administration of the Refugee Program.

Section 70-102.3

Specific Purpose:

This section is adopted to clarify that, in the absence of additional evidence, the sworn statement of an applicant attesting to his/her trafficking status will be sufficient if the CWD makes a determination documented in the case file that the applicant is credible.

Factual Basis:

This adoption is necessary to comply with Sections 13283 and 18945 of the Welfare and Institutions Code added by SB 1569, which extends eligibility for social services and benefits to noncitizen victims of human trafficking, domestic violence, or other serious crimes. For consistency and accuracy, it is necessary to specify the procedure for determining trafficking status that CWDs must follow if additional evidence is absent. This section is also developed under the provisions of Welfare and Institutions Code 10553, which provides the Director of CDSS with the authority to adopt regulations to ensure consistency in the administration of the Refugee Program.

Handbook Section 70-102.31

Specific Purpose:

This handbook section is added to describe the type of document a CWD may utilize to obtain the sworn statement of an applicant.

Factual Basis:

This handbook section is necessary to clarify for the CWD that a particular type of document likely already available in the CWD may be utilized for obtaining the sworn statement from an applicant.

Sections 70-103.1 through .14

Specific Purpose:

These sections are adopted to specify the conditions an applicant must satisfy in order meet the definition of a victim of human trafficking for purposes of TCVAP eligibility.

Factual Basis:

These adoptions are necessary to comply with Sections 13283 and 18945 of the Welfare and Institutions Code added by SB 1569, which extends eligibility for social services and benefits to noncitizen victims of human trafficking, domestic violence, or other serious crimes. After the CWD verifies that an applicant meets the definition of a victim of a severe form of trafficking, these sections provide specific criteria that must be applied in determining eligibility for TCVAP, in order to ensure accurate and appropriate determinations. These sections are also developed under the provisions of Welfare and

Institutions Code 10553, which provides the Director of CDSS with the authority to adopt regulations to ensure consistency in the administration of the Refugee Program.

Handbook Sections 70-103.2 through .4

Specific Purpose/Factual Basis:

These handbook sections are added to provide examples of documentation a CWD may utilize when determining the eligibility of an applicant for TCVAP benefits and services, and provide a definition of "continued presence."

Sections 70-103.5 through .54

Specific Purpose:

These sections are adopted to specify reasons to terminate eligibility for TCVAP, and include a definition of "final administrative denial."

Factual Basis:

These sections are necessary to comply with Sections 13283 and 18945 of the Welfare and Institutions Code added by SB 1569, which extends eligibility for social services and benefits to noncitizen victims of human trafficking, domestic violence, or other serious crimes. These sections are necessary to ensure CWDs know the specific criteria which would result in termination of a TCVAP case. These sections are also developed under the provisions of Welfare and Institutions Code 10553, which provides the Director of CDSS with the authority to adopt regulations to ensure consistency in the administration of the Refugee Program.

Section 70-104.1

Specific Purpose:

This section is adopted to specify what the CWD must verify in order to determine the eligibility of victims of serious crimes for TCVAP.

Factual Basis:

This adoption is necessary to comply with Sections 13283 and 18945 of the Welfare and Institutions Code added by SB 1569, which extends eligibility for social services and benefits to noncitizen victims of human trafficking, domestic violence, or other serious crimes. This adoption specifies the basic requirement for TCVAP eligibility for a victim of serious crime. This section is also developed under the provisions of Welfare and Institutions Code 10553, which provides the Director of CDSS with the authority to adopt regulations to ensure consistency in the administration of the Refugee Program.

Handbook Sections 70-104.11 through .113

Specific Purpose/Factual Basis:

These handbook sections are added to provide the definition of alien victims of serious crimes for purposes of the TCVAP.

Handbook Sections 70-104.12 through .124

Specific Purpose/Factual Basis:

These handbook sections are added to identify specific documents and/or documentation that the CWD can use to verify that a crime victim has applied for a U Visa.

Section 70-104.2

Specific Purpose:

This section is adopted to specify when the CWD must terminate aid to a TVCAP crime victim case.

Factual Basis:

These sections are necessary to comply with Sections 13283 and 18945 of the Welfare and Institutions Code added by SB 1569, which extends eligibility for social services and benefits to noncitizen victims of human trafficking, domestic violence, or other serious crimes. These sections are necessary to clarify for CWDs the eligibility rules for discontinuing the case of a crime victim receiving TCVAP. These sections are also developed under the provisions of Welfare and Institutions Code 10553, which provides the Director of CDSS with the authority to adopt regulations to ensure consistency in the administration of the Refugee Program.

Section 70-105.1

Specific Purpose:

This section is adopted to specify that TCVAP recipients are entitled to the same benefits and services as refugees (cross-references provided), but with the exceptions that follow.

Factual Basis:

This adoption is necessary to comply with Sections 13283 and 18945 of the Welfare and Institutions Code added by SB 1569, which extends eligibility for social services and benefits to noncitizen victims of human trafficking, domestic violence, or other serious crimes. Although TCVAP recipients are entitled to the same benefits and services, and subject to the same requirements and exemptions (as authorized by law) as refugees, it is necessary to establish that there are certain exceptions. Cross-references are provided to direct the reader to the correct MPP sections to avoid confusion and duplication of

regulatory material. This section is also developed under the provisions of Welfare and Institutions Code 10553, which provides the Director of CDSS with the authority to adopt regulations to ensure consistency in the administration of the Refugee Program.

Section 70-105.11

Specific Purpose/Factual Basis:

This section is adopted to provide a title for eligibility requirements for other programs that are referenced in Section 70-105.1 as exceptions.

Section 70-105.111

Specific Purpose:

This section is adopted to establish that TCVAP applicants shall not be required to apply for SSI/SSP.

Factual Basis:

This adoption is necessary to comply with Sections 13283 and 18945 of the Welfare and Institutions Code added by SB 1569, which extends eligibility for social services and benefits to noncitizen victims of human trafficking, domestic violence, or other serious crimes. Undocumented individuals are not eligible for SSI/SSP, and it is not appropriate to require an individual to apply for a program for which it is known s/he is not eligible. This section clarifies this exception for the CWDs when determining eligibility for TCVAP applicants. This section is also developed under the provisions of Welfare and Institutions Code 10553, which provides the Director of CDSS with the authority to adopt regulations to ensure consistency in the administration of the Refugee Program.

Section 70-105.112

Specific Purpose:

This section is adopted to establish that TCVAP applicants shall be aided under the state Cash Assistance Program for Immigrants (CAPI) if eligible.

Factual Basis:

This adoption is necessary to comply with Sections 13283 and 18945 of the Welfare and Institutions Code added by SB 1569, which extends eligibility for social services and benefits to noncitizen victims of human trafficking, domestic violence, or other serious crimes. This section specifies that CWDs must assess trafficking and crime victims' eligibility for CAPI and grant CAPI benefits if eligible pursuant to MPP Sections 49-020.13 and .14.

Section 70-105.113

Specific Purpose:

This section is adopted to establish that TCVAP applicants shall be aided under the state California Work Opportunity for Kids (CalWORKs) Program if eligible.

Factual Basis:

This adoption is necessary to comply with Sections 13283 and 18945 of the Welfare and Institutions Code added by SB 1569, which extends eligibility for social services and benefits to noncitizen victims of human trafficking, domestic violence, or other serious crimes. This section specifies that CWDs must assess trafficking and crime victims' eligibility for the CalWORKs Program before having their eligibility assessed for TCVAP, consistent with eligibility determinations for refugees at MPP 69-204.2. This section is also developed under the provisions of Welfare and Institutions Code 10553, which provides the Director of CDSS with the authority to adopt regulations to ensure consistency in the administration of the Refugee Program.

Section 70-105.12

Specific Purpose/Factual Basis:

This section is adopted to provide a title for eligibility requirements for TCVAP Cash Aid that is referenced in Section 70-105.1 as exception.

Section 70-105.121

Specific Purpose:

This section is adopted to specify that time-eligibility and refugee criteria are not to be applied to TCVAP applicants/recipients.

Factual Basis:

This adoption is necessary to comply with Sections 13283 and 18945 of the Welfare and Institutions Code added by SB 1569, which extends eligibility for social services and benefits to noncitizen victims of human trafficking, domestic violence, or other serious crimes. To avoid confusion and ensure appropriate application of the rules, this section clarifies that, while TCVAP recipients are entitled to benefits and services to the same extent as refugees, certain criteria and provisions regarding time eligibility and refugee status do not apply to TCVAP recipients. This section is also developed under the provisions of Welfare and Institutions Code 10553, which provides the Director of CDSS with the authority to adopt regulations to ensure consistency in the administration of the Refugee Program.

Section 70-105.122

Specific Purpose:

This section is adopted to establish the number of months for which a TCVAP recipient is eligible to receive cash aid and clarify the point at which eligibility begins.

Factual Basis:

This adoption is necessary to comply with Sections 13283 and 18945 of the Welfare and Institutions Code added by SB 1569, which extends eligibility for social services and benefits to noncitizen victims of human trafficking, domestic violence, or other serious crimes. A TCVAP recipient is eligible for the same number of months of cash aid as a federally-eligible refugee, but, unlike a refugee, the number of months for cash aid begins to be counted from the date of application. This adoption will avoid confusion and ensure appropriate application of the rules. This section is also developed under the provisions of Welfare and Institutions Code 10553, which provides the Director of CDSS with the authority to adopt regulations to ensure consistency in the administration of the Refugee Program.

Section 70-105.123 through .124(a)

Specific Purpose:

These sections are adopted to specify eligibility determination periods for trafficking victims and crime victims, which differ in some ways, and expand upon and clarify cash aid and service rules, time frames, and outcomes of requirements that must be met for each victim group. These sections clarify the rules for TCVAP trafficking and crime recipients with regard to their eligibility periods for aid, and delineate specific actions that must occur depending on the circumstances of each case.

Factual Basis:

These sections are necessary to comply with Sections 13283 and 18945 of the Welfare and Institutions Code added by SB 1569, which extends eligibility for social services and benefits to noncitizen victims of human trafficking, domestic violence, or other serious crimes. Although TCVAP recipients are entitled to the same benefits and services, and subject to the same requirements and exemptions (as authorized by law) as refugees, there are differences between the refugee rules and the rules for trafficking and crime victims that may cause confusion. These sections are necessary to clarify the process so that CWDs will make consistent and accurate determinations. These sections are also developed under the provisions of Welfare and Institutions Code 10553, which provides the Director of CDSS with the authority to adopt regulations to ensure consistency in the administration of the Refugee Program.

Section 70-105.13

Specific Purpose:

This section is adopted to specify that a TCVAP recipient who obtains ORR certification must have his/her eligibility for RCA determined and, if eligible, be discontinued from TCVAP and may receive RCA cash aid for up to the maximum allowable under the RCA provisions.

Factual Basis:

This section is necessary to provide CWDs with the requirements for handling a case when a TCVAP recipient obtains ORR certification. The TCVAP case must be discontinued and the eligible recipient may receive RCA for up to the maximum number of months allowed regardless of whether s/he previously received TCVAP cash aid. Prior to Senate Bill 1569, the only refugee cash aid was RCA, and the maximum limit is well-established in that program. This section is necessary to clarify this issue and avoid confusion. This section is also developed under the provisions of Welfare and Institutions Code 10553, which provides the Director of CDSS with the authority to adopt regulations to ensure consistency in the administration of the Refugee Program.

Section 70-105.14

Specific Purpose/Factual Basis:

This section is adopted to provide a title for eligibility requirements for Employment/ Training Requirements and Exemptions that are referenced in Section 70-105.1 as exception.

Section 70-105.141

Specific Purpose:

This section is adopted to establish that TCVAP recipients shall not be required to participate in certain employment-directed activities for which they are not authorized by law, i.e., if they do not possess work authorization from USCIS.

Factual Basis:

This adoption is necessary to comply with Sections 13283 and 18945 of the Welfare and Institutions Code added by SB 1569, which extends eligibility for social services and benefits to noncitizen victims of human trafficking, domestic violence, or other serious crimes. This adoption is necessary to specify the stipulation in the law that TCVAP recipients shall only be required to participate in employment-directed requirements and/or activities if they are legally authorized to do so. This section is also developed under the provisions of Welfare and Institutions Code 10553, which provides the Director of CDSS with the authority to adopt regulations to ensure consistency in the administration of the Refugee Program.

Section 70-105.141(a)

Specific Purpose:

This section is adopted to explain that certain work-related activities may not be appropriate for an individual who is not legally authorized to work, and to provide examples of appropriate employment and training activities for such recipients.

Factual Basis:

This adoption is necessary to comply with Sections 13283 and 18945 of the Welfare and Institutions Code added by SB 1569, which extends eligibility for social services and benefits to noncitizen victims of human trafficking, domestic violence, or other serious crimes. TCVAP recipients who are not authorized to work and not able to legally participate in certain work-directed activities must not be required to do so for purposes of program eligibility. This section specifies that certain activities shall not be required and suggests other activities that would be appropriate for individuals not authorized to work. This section is also developed under the provisions of Welfare and Institutions Code 10553, which provides the Director of CDSS with the authority to adopt regulations to ensure consistency in the administration of the Refugee Program.

Section 70-105.142

Specific Purpose:

This section is adopted to provide a specific exemption from work registration and training requirements if physical or psychological trauma resulting from an individual's victimization impedes his/her ability to comply. A cross-reference to other exemptions that may apply is provided for CWD use.

Factual Basis:

This adoption is necessary to comply with Sections 13283 and 18945 of the Welfare and Institutions Code added by SB 1569, which extends eligibility for social services and benefits to noncitizen victims of human trafficking, domestic violence, or other serious crimes. This will ensure that CWDs are aware of and apply this exemption, provided for in law, when appropriate. Additional exemptions which may apply are cross-referenced to avoid confusion and duplication of regulatory material. This section is also developed under the provisions of Welfare and Institutions Code 10553, which provides the Director of CDSS with the authority to adopt regulations to ensure consistency in the administration of the Refugee Program.

Sections 70-105.15 through .154

Specific Purpose:

These sections are adopted to establish case documentation requirements and provide cross-references.

Factual Basis:

These sections are necessary to comply with Sections 13283 and 18945 of the Welfare and Institutions Code added by SB 1569, which extends eligibility for social services and benefits to noncitizen victims of human trafficking, domestic violence, or other serious crimes. These amendments specifying documentation required for TCVAP recipients that differs from refugees will ensure that proper documentation be kept. Cross-references are provided to avoid confusion and duplication of regulatory material. These sections are also developed under the provisions of Welfare and Institutions Code 10553, which provides the Director of CDSS with the authority to adopt regulations to ensure consistency in the administration of the Refugee Program.

b) Identification of Documents Upon Which Department Is Relying

Senate Bill 1569 (Chapter 672, Statutes of 2006)

c) Local Mandate Statement

These regulations do impose a mandate upon local agencies, but not school districts. If the Commission on State mandates determines that this act contains costs mandated by the state, reimbursement to local agencies for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

d) Statement of Alternatives Considered

CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed action.

e) Statement of Significant Adverse Economic Impact On Business

CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.